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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,739	03/26/2004	Venkatkrishna Raghavendran	22090-2	9701

7590

07/21/2006

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EXAMINER

BOYKIN, TERRESSA M

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/810,739

Applicant(s)

RAGHAVENDRAN ET AL.

Examiner

Terressa M. Boykin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5-3-06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-39 are rejected under 35 U.S.C. 102(b) as being anticipated by USPub 2003/0134101.

The USPub 2003/0134101 discloses a porous sheet which is formed of an elastic polymer (1), has a thickness of 10 to 500 .mu.m and has 500 to 15,000 fine pores per mm inside, the fine pores having an average pore diameter of 1 to 20 .mu.m, and which has a breaking strength of 1 to 15 N/mm.² and a breaking elongation of 100 to 500%, and a fiber composite sheet comprising the above porous sheet laminated on a substrate made of a fiber aggregate as a main component. The porous sheet is excellent in feeling and suitable for use as a substitute for natural leather for shoes and clothes, and a fiber composite sheet using the same.

The reference has discovered that improvements in the previous related art may be achieved by a porous sheet formed of an elastic polymer (1), the sheet having a thickness of 10 to 500 .mu.m and having 500 to 15,000 pores per mm.² inside, the fine pores having an average pore diameter of 1 to 20 .mu.m, the porous sheet having a breaking strength of 1 to 15 N/mm.² and a breaking elongation of 100 to 500%. Wherein the process for the production of a porous sheet, which comprises preparing a stable aqueous dispersion (1) containing an elastic

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polymer (1) and water-repellent particles, pre-heating the aqueous dispersion (1) at a temperature of 60 to 90.degree. C. under a condition where the aqueous dispersion (1) has a water content of 20 to 80 wt %, and then removing water.

The reference also discloses a fiber composite sheet comprising a substrate made of a fiber aggregate as a main component and the porous sheet of the above (1) laminated on the surface of the substrate. The process for the production of a fiber composite sheet comprises laminating the porous sheet of the above (1) on the surface of a substrate made of a fiber aggregate as a main component to form a laminate, heating the laminate at a temperature of 100 to 150.degree. C. for 3 seconds to 5 minutes and then nip-treating the laminate with a hot roll at 100 to 150.degree. C.

Thus, the USPub discloses a composite sheet material prepared from the same components as claimed by applicants. Any properties or characteristics inherent in the prior art, e.g. limiting oxygen index, although unobserved or detected by the reference, would still anticipate the claimed invention. Note *In re Swinehart*, 169 USPQ 226. "It is elementary that the mere recitation of a newly discovered...property, inherently possessed by things in the prior art, does not cause claim drawn to those things to distinguish over the prior art". Since the disclosed amounts, i.e. weight percents, are expressed differently and thus may be distinct from those claimed, it is incumbent upon applicant(s) to establish that they are in fact different and whether such difference is unobvious. In view of the above, there appears to be no significant difference between the reference(s) and that which is claimed by applicant(s). Any differences not specifically

mentioned appear to be conventional. Consequently, the claimed invention cannot be deemed as novel and accordingly is unpatentable.

Obviousness-type Double Patenting

Claims 1-39 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1- 14, 26-27, 29-42 of copending Application No. **10/696869**. Although the conflicting claims are not identical, they are not patentably distinct from each other because the composition sheet material as claimed is fully encompassed by the composition of the fiber reinforced laminate material of the multi-layered laminate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Correspondence

Please note that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov <<http://www.uspto.gov>>), from the Office of Public Records and from commercial sources. Applicants may be referred to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Terressa Boykin whose telephone number is 571 272-1069. The examiner can normally be reached on Monday through Friday from 6:30am to 3:00pm.

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The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The general information number for listings of personnel is (571-272-1700).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tmb


Examiner Terressa Boykin

TERRESSA M. BOYKIN
PRIMARY EXAMINER